Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
STEVE SACKS, MD

Respondent Name
LIBERTY MUTUAL INSURANCE CO

MFDR Tracking Number
M4-14-1581-01

Carrier's Austin Representative
Box Number 01

MFDR Date Received
FEBRUARY 3, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "DESIGNATED DOCTOR REFERRED DIAGNOSTIC TESTING."

Amount in Dispute: $761.82

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a network claim."

Response Submitted by: Liberty Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 1, 2013	CPT Code 99203 New Patient Office Visit	$15.92	$0.00
	CPT Code 95886 (X2) Needle EMG	$282.24	$257.62
	CPT Code 95912 Nerve Conduction Studies (11-12)	$438.66	$0.00
	HCPCS Code A4556 Electrodes	$25.00	$0.00
TOTAL		$761.82	$257.62

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10, effective September 1, 2012 sets out the procedures for designated doctor examinations.
3. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - Z710-The charge for this procedure exceeds the fee schedule allowance.
   - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
   - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
   - X263-The code billed does not meet the level/description of the procedure performed/documented. Consideration will be given with coding that reflects the documented procedure.
   - B291-This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed.
   - U058-Procedure code should not be billed without appropriate primary procedure.

Issues

1. Does Medical Fee Dispute Resolution (MFDR) have authority to review this dispute?
2. Is the requestor due additional reimbursement for CPT code 99203?
3. Does the documentation support billing CPT code 95886 (X2)? Is the requestor entitled to reimbursement?
4. Does the documentation support billing CPT code 95912? Is the requestor entitled to reimbursement?
5. Is the benefit for HCPCS code A4556 included in the benefit of another service billed on the disputed date? Is the requestor entitled to reimbursement for HCPCS code A4556?

Findings

1. 28 Texas Administrative Code §127.10(c) states in part "The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure)."

   The requestor states "DESIGNATED DOCTOR REFERRED DIAGNOSTIC TESTING." Because the testing was part of a designated doctor examination, MFDR has jurisdiction to review the fee dispute per 28 Texas Administrative Code §127.10(c).

2. According to the submitted explanation of benefits, the respondent paid for the disputed office visit based upon reason code "Z710".

   28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

   The American Medical Association Current Procedural Terminology (CPT) defines code 99203 as "Office or other outpatient visit for the evaluation and management of a new patient, which requires these 3 key components: A detailed history; A detailed examination; Medical decision making of low complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate severity. Typically, 30 minutes are spent face-to-face with the patient and/or family."

   To determine if the requestor is due additional reimbursement for CPT code 99203, the Division refers to 28 Texas Administrative Code §134.203(c)(1)(2), which states "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage

adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2013 DWC conversion factor for this service is 55.3.

The Medicare Conversion Factor is 34.023.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 79703, which is located in Midland, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for "Rest of Texas".

The Medicare participating amount for code 99203 is $102.43.

Using the above formula, the Division finds the MAR for code 99203 is $166.49. The respondent paid $166.49. As a result, reimbursement of $0.00 is recommended

3. According to the explanation of benefits, the respondent denied reimbursement for CPT code 95886 based upon reason code "U058".

   28 Texas Administrative Code §134.203 (b)(1) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

   CPT code 95886 is defined as "Needle electromyography, each extremity, with related paraspinal areas, when performed, done with nerve conduction, amplitude and latency/velocity study; complete, five or more muscles studied, innervated by three or more nerves or four or more spinal levels (List separately in addition to code for primary procedure)." CPT code 95886 is not a stand alone code and may be billed with codes 95907-95913.

   A review of the submitted medical bill finds that the requestor billed 95886 in conjunction with 95912; therefore, the respondent's denial is not supported. Therefore, reimbursement per 28 Texas Administrative Code §134.203(c)(1)(2) is recommended.

   Using the above formula, the Division finds that the Medicare participating amount for code 95886 is $79.25; therefore, the MAR is $128.81. The requestor billed for two units ($128.81 X 2) = $257.62; this amount is recommended for reimbursement.

4. CPT code 95912 is defined as "Nerve conduction studies; 11-12 studies."

   The respondent denied reimbursement based upon the documentation did not support the level of service billed.

   A review of the submitted report finds that the requestor supports billing 10 studies; therefore, the requestor did not support billing code 95912. As a result, reimbursement is not recommended.

5. According to the explanation of benefits, the respondent denied reimbursement for HCPCS code A4556 based upon reason code "B291."

   HCPCS A4556 is defined as "Electrodes (e.g., apnea monitor), per pair."

   28 Texas Administrative Code §134.203(a)(5), states "'Medicare payment policies' when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

   Per Medicare guidelines, if HCPCS A4556 is incidental to the physician service, it is not separately payable. A review of the submitted documentation does not support a separate service. As a result, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due for the specified services. As a result, the amount ordered is $257.62.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $257.62 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		05/06/2015
Signature	Medical Fee Dispute Resolution Officer	

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.